

## § 171.23

property or any doubt as to the claimant's interest in or right to the property, the Fines, Penalty, and Forfeiture Officer shall submit the matter to the Commissioner of Customs for decision.

[T.D. 70-249, 35 FR 18265, Dec. 1, 1970, as amended by T.D. 79-160, 44 FR 31962, June 4, 1979]

### **§ 171.23 Availability of mitigation guidelines for monetary penalties assessed pursuant to section 592, Tariff Act of 1930, as amended.**

The guidelines used by the Customs Service for the mitigation of claims for monetary penalties assessed pursuant to section 592, Tariff Act of 1930, as amended, are available upon written request to the Commissioner of Customs, Attention: Office of Regulations and Rulings, 1301 Constitution Avenue, NW., Washington, DC 20229.

[T.D. 80-160, 45 FR 40975, June 17, 1980]

### **§ 171.24 Limitations on consideration of petitions.**

(a) *Case referred for institution of legal proceedings.* No action shall be taken on any petition if the civil liability has been referred to the Department of Justice for institution of legal proceedings. The petition shall be forwarded to the Department of Justice.

(b) *Vessel or vehicle awarded for official use.* When a vessel or vehicle is awarded for official use, a petition shall not be considered unless:

(1) It is filed before final disposition of the property is made; or

(2) It is a petition for restoration of proceeds of sale filed in accordance with subpart E of this part.

[T.D. 75-21, 40 FR 2798, Jan. 16, 1975. Redesignated and amended by T.D. 84-18, 49 FR 1680, Jan. 13, 1984]

## **Subpart D—Disposition of Petitions**

### **§ 171.31 Act or omission did not occur.**

If it is definitely determined that the act or omission forming the basis of a penalty or forfeiture claim did not in fact occur, the claim shall be canceled by the Fines, Penalty, and Forfeiture Officer. When the determination of whether or not the claim was erroneously made depends upon a construc-

## 19 CFR Ch. I (4-1-98 Edition)

tion of law, the claim shall not be canceled without the approval of the Commissioner of Customs unless there is in force a ruling by the Commissioner of Customs decisive of the issue.

### **§ 171.31a Written decision.**

If a petition or supplemental petition (see § 171.33) for relief relates to a violation of section 592, Tariff Act of 1930, as amended (19 U.S.C. 1592), for which proceedings commenced after December 31, 1978, the petitioner shall be provided with a written statement setting forth the decision on the matter and the findings of fact and conclusions of law upon which the decision is based. Decisions on initial or supplemental petitions which are considered to be precedential in nature or otherwise significant will be published in the weekly CUSTOMS BULLETIN with appropriate deletion of information exempt from disclosure under part 103 of this chapter. For purposes of this section, a proceeding commences with the issuance of a prepenalty notice or, if no prepenalty notice is issued, with the issuance of a notice of a claim for a monetary penalty.

[T.D. 79-160, 44 FR 31962, June 4, 1979]

### **§ 171.32 Limitation on time decision effective.**

A decision to mitigate a penalty or to remit a forfeiture upon condition that a stated amount is paid shall be effective for not more than 60 days from the date of notice to the petitioner of such decision, unless the decision itself prescribes a different effective period or the decision is later amended to change the effective period. If payment of the stated amount is not made, or arrangements made for delayed payment or installment payments, or a supplemental petition filed, within the effective period, the full penalty or claim of forfeiture shall be deemed applicable and shall be enforced by promptly referring the matter, after required collection action, if appropriate, to the U.S. attorney unless other action has been directed by the Commissioner of Customs.

[T.D. 70-249, 35 FR 18265, Dec. 1, 1970, as amended by T.D. 79-160, 44 FR 31962, June 4, 1979]